

## Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claims 1, 7, 8, 14, 20, and 21 have been amended. No claims have been added or canceled; claims 1-26 are pending.

## Objections to the Specification – 37 C.F.R. 1.77

The applicant respectfully submits that 37 C.F.R. 1.73 merely states that a “brief summary of the invention... *should* (emphasis added) precede the detailed description.” There is no requirement that a summary shall or must precede the detailed description. Accordingly, the applicant petitions the Examiner to withdraw his objection to the specification.

## Claim Rejections - 35 U.S.C. § 103

All of the claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent No. EP 0899662 A1 of Gold et al. (Gold) in view of US Patent No. 6334149 of Davis, Jr. et al. (Davis). Applicant submits that these claims are not rendered obvious by the cited references for at least the following reasons:

### Claims 1-7

Claim 1, as amended, recites a method comprising:

Establishing a file transfer session between an information routing network device that has entered a debug mode and a server, a name of a last known good image and configuration file pair being stored on the network device, the

last known good image and configuration file pair being stored on the server;

and requesting a transfer of the last known good image and configuration file pair from the server to the network device.

The Examiner indicates at p. 3 of the Office Action that Gold discloses a method for establishing a file transfer session between an information transferring network device that has entered a debug mode and a server. However, the claim has been amended to recite an information transfer between an information routing network device and a server. The applicant submits that the file transfer taught in Gold does not occur between an information routing network device and a server, but rather between a server and a client computer which, at least as taught in Gold, sends and receives, but does not route information as it travels across a network.

Even assuming, merely for the purposes of argument, that Gold does disclose an information routing network device, Gold does not disclose that the file transfer occurs after the device has entered a debug mode. The Examiner relies upon paragraphs [0049]-[050] and [0043]-[0045] of Gold to establish this fact, but none of those paragraphs teach or imply a debug mode. In fact, the device disclosed by Gold performs the file transfer by the means of several modules (e.g. the Data Transfer Module [para. 0043], the Restore Module [para. 0049], etc.), comprising executable software routines (Gold para. [0025]), impliedly running under normal operating conditions. Even if every other element of claim 1 is taught or implied by the references, which is not conceded, the applicant submits that none of the cited passages of Gold teach or imply a debug mode. Since

Davis is not cited to teach, nor does it teach, a debug mode either, the Examiner has not established a *prima facie* case for obviousness wherein every element of the claim is taught or implied by the references, as required by M.P.E.P. § 2143.

Claims 2, 3, 4, 5, 6, and 7 were also rejected as being unpatentable over Gold, but, as they depend from and inherit the limitations of claim 1, they are not rendered obvious by the references, whether alone or in combination, for at least the reasons set forth above. (M.P.E.P. § 2143.03)

In further regards to claims 2 and 6, the Examiner indicates at pp. 3 and 4, by citing Gold, paragraphs [0081]-[0083], that Gold discloses detecting a network device in a fatal mode, entering a debug mode, and then automatically restoring the network device to working mode *after* receiving the transfer of the last known good image and configuration file pair. However, although Gold does disclose a method for restoring data with a “disaster recovery module,” these paragraphs never teach or imply a debug mode. In fact, paragraph [0081] can only be reasonably interpreted to teach that a failed network device must be restored to a normal operating condition *before* any file transfer can be made (the device operating system is re-installed along with a backup agent to communicate with the backup server). The Examiner has apparently so concluded as well by stating in regards to claim 6 at p. 4 of the Office Action that “the [file] transfer is (sic) starts, proceeds and finishes unattended which would show that the device is restored to working mode [before the file transfer takes place].”

Claims 8-26

The applicant submits that claims 8, 14, and 21 are not rendered obvious by the references, whether alone or in combination, for at least the same reasons as set forth with respect to claim 1.

The applicant submits that claims 9-13, 15-20, and 22-26 depend from and inherit the limitations of claims 8, 14, and 21, respectively. Therefore, they are not obvious for at least the reasons set forth above. (M.P.E.P. § 2143.03)

CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 1-26 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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Date: JUNE 10, 2004

  
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